IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

CRP.No. 868 of 2006()

AGAINST THE ORDER DATED 08/06/2005 OF THE APPELLATE AUTHORITY (LR), KANNUR IN IN AA.99/2001 IN SMC.249/1998 OF THE SPECIAL TAHSILDAR (LR) MANANTHAVADY)

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REVN. PETITIONER: RESPONDENT:

THIRUTHINI APPUKKUTTAN,
VEMOM, P.O.PILAKKAVU, MANANTHAVADY.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENT: APPELLANT:

STATE OF KERALA, REPRESENTED BY
THE DISTRICT COLLECTOR, WAYANAD.

BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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C.R.P. No.868 of 2006

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Dated: 11th July, 2007

ORDER

Heard Mr.M.Sasindran, learned counsel for the petitioner and Mr.Shyson P.Manguzha, learned Government Pleader on behalf of the State.

2. This revision is directed against the order of the Land Reforms Appellate Authority under which the Appellate Authority set aside the order of the Land Tribunal directing assignment of jenmom rights in respect of a holding having an extent of 28 cents in favour of the petitioner herein. According to the Appellate Authority, the order of the Land Tribunal is not proceeded by any proper enquiry conducted by the Land Tribunal regarding issuance of the order allowing tenancy. The Appellate Authority also could not approve of the conduct of the Land Tribunal in issuing notice to Miss.N.N.Weir, an English woman who had left India years ago shown in the proceeding as the land owner. The Appellate Authority accepted the case of the District Collector, the appellant, that the land in question was entrusted by the English woman to the District Collector, Bombay under the Court Ward Act, 1906. The Appellate Authority also became surprised to find that despite the continuance absence of the present

petitioner the Tribunal became inclined to decide the S.M.Case in his favour.

3. Mr.M.Sasindran, learned counsel for the petitioner would submit that the impugned order has been passed by the Appellate Authority without hearing the petitioner or his counsel. The learned counsel would also submit that the proceedings before the Land Tribunal were initiated suo motu on the basis of the report submitted by the Authorised Officer attached to the Land Tribunal and such reports are considerable probative value in terms of Kerala Land Reforms (Vesting and Assignment) Rules. The property in question is the residential holding of the petitioner who has been issued with a ration card in respect of the building situated on the property. In all respects the petitioner's claim is a genuine one and at any rate opportunity should not be denied to the petitioner for substantiating his claim, so submits the counsel.

3. Even though the learned Government Pleader would support the order of the Appellate Authority, he does not dispute the submission of the learned counsel for the petitioner that the order has been passed without hearing the petitioner or his counsel. Therefore, I am inclined to set aside that order and direct a fresh

reconsideration of the issue by the Appellate Authority. Accordingly, I set aside the order passed by the Land Reforms Appellate Authority, Kannur in A.A.No.99/01 and direct the Appellate Authority to take a fresh decision in the matter. Fresh decision as directed above will be taken by the Appellate Authority only after calling for the entire records from the Land Tribunal including the Authorised Officer's report on the basis of which the suo motu case was initiated. Decision as directed above will be taken with notice to the District Collector and the petitioner, at the earliest and at any rate within four months of the petitioner producing a copy of this order.

The C.R.P. is allowed to the extent indicated above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**